

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 53 of 1989

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed : NO  
to see the judgements?
  2. To be referred to the Reporter or not? : NO
  3. Whether Their Lordships wish to see the fair copy : NO  
of the judgement?
  4. Whether this case involves a substantial question : NO  
of law as to the interpretation of the Constitution  
of India, 1950 of any Order made thereunder?
  5. Whether it is to be circulated to the Civil Judge? : NO

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SHIVRAMBHAI SOMDAS PATEL

Versus

STATE OF GUJARAT

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Appearance:

MR JD AJMERA for Petitioner

MR VM PANCHOLI AGP for Respondent No. 1 and 2

None present for Respondent No. 3

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CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 05/05/2000

ORAL JUDGEMENT

Heard learned counsel for the parties.

The petitioner, by this petition, under Article 226 of Constitution of India, challenges the validity of the order of the respondent No.2 dated 15.11.88 whereby he has been asked to join the Secondary School at village Mathasur where the petitioner was earlier serving. It is the case of the petitioner that from that school he was declared surplus and thereafter under the order of the respondent No.2, he was absorbed in the respondent No.3 school and there he is working. Once the petitioner has been absorbed in another school and in the parent school, if vacancy is arisen, it prima facie seems to be correct that no such compulsion can be there from the side of the respondent No.2 for the petitioner.

Here, in this case, the petitioner has approached to this court with the grievance that he cannot be asked to go back to the parent school. This court has protected the petitioner and till day he is continuing in the respondent No.3 school. Now there are all possibilities that the post of the teacher, which was vacant in the parent school of the petitioner, by now would have been filled in. In these facts, now possibly there would be any occasion or necessity for the respondents to send the petitioner to his parent school. In fact, after grant of the interim relief by the court in favour of the petitioner this petition at that stage itself had become infructuous.

Be that as it may. The interest of justice will be served, if this Special Civil Application and rule are disposed in the terms that still the respondent No.2 considers that the petitioner has to be sent back to the parent school then a reasoned order may be passed and the copy of the same be sent to the petitioner by Registered Post A.D. Liberty is granted to the petitioner for revival of this Special Civil Application, in case of any difficulty. In the facts of this case, no order as to costs.

(S.K.Keshote, J.)

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